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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA, *ex rel.*
DONALD K. WADSWORTH, *et al.*,

Plaintiffs,

v.

TETRA TECH EC, INC., *et al.*,

Defendants.

Case No. C 16-1107 JD

**UNITED STATES' COMPLAINT IN
INTERVENTION AGAINST TETRA
TECH EC, INC.**

DEMAND FOR JURY TRIAL

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UNITED STATES' COMPLAINT IN INTERVENTION, No. C 16-1107 JD

1 For its Complaint in Intervention against Tetra Tech EC, Inc., the United States of
2 America alleges as follows:

3 **I. NATURE OF ACTION**

4 1. The United States brings this action against Tetra Tech EC, Inc. (“Tetra Tech EC”) to
5 recover treble damages and civil penalties under the False Claims Act, 31 U.S.C. §§ 3729-33,
6 and to recover damages and other monetary relief under the common law theory of breach of
7 contract.
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9 2. This action concerns Tetra Tech EC’s submission of false claims under contracts with
10 the United States Navy to provide radiological remediation services at the Hunters Point Naval
11 Shipyard (“Hunters Point”) in San Francisco, California.
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13 3. Hunters Point was established as a commercial shipyard in 1870. The Navy operated
14 the shipyard from 1940 to 1974 and, during that time, it used Hunters Point to house the Naval
15 Radiological Defense Laboratory and to decontaminate ships. In 1989, Hunters Point was
16 declared a Superfund site under the Comprehensive Environmental Response, Compensation,
17 and Liability Act (CERCLA), requiring a long-term cleanup plan. In 1991, the Base
18 Realignment and Closure Commission (BRAC) recommended Hunters Point for closure. The
19 Navy has agreed to convey Hunters Point to the City and County of San Francisco for residential
20 and commercial development on a parcel-by-parcel basis as the environmental cleanup is
21 completed.
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23 4. From 2003 through 2014, Tetra Tech EC and certain of its predecessor companies
24 (collectively, “Tetra Tech”) entered into a series of contracts with the United States Navy to
25 provide radiological remediation services at Hunters Point. These contracts required Tetra Tech,
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1 among other things, to investigate radiological contamination of soil and buildings, remediate
2 and remove waste as necessary, and provide status reports to the Navy documenting its activities
3 to support the redevelopment of radiologically impacted sites and buildings at Hunters Point for
4 non-military use. The objective of these contracts was to achieve “free-release” of radiologically
5 impacted areas by testing soil and buildings in those areas, and remediating as necessary, until
6 test results demonstrated that radiation levels were below applicable release criteria and
7 regulatory limits. Pursuant to its agreement with the City and County of San Francisco, the Navy
8 must complete the radiological remediation of Hunters Point before it can transfer the property to
9 the City and County for redevelopment. The Navy awarded contracts to Tetra Tech to perform
10 these services at certain areas of Hunters Point designated as Parcels B, C, D-2, E and G, and
11 Utility Corridors 1, 2, and 3.¹ The following map depicts the Parcels of Hunters Point,
12 including those where Tetra Tech was to perform radiological remediation:
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27 ¹ The Navy awarded contracts to other contractors to perform testing and remediation in the
28 other parcels of Hunters Point.



5. As detailed below, Tetra Tech violated the False Claims Act and breached its contracts with the Navy by: (1) misrepresenting the source of soil samples submitted to the laboratory for testing; (2) manipulating data from radiological testing of buildings; and (3) reporting false results from the radiological soil and building tests. Tetra Tech submitted false claims to the Navy for this work as if it was properly performed when it was not. The Navy relied on Tetra Tech's misrepresentations in concluding that the remediation of radiologically-

1 impacted areas at Hunters Point was complete and made payments to Tetra Tech based on these
2 material misrepresentations.

3 6. During the period May 2005 through January 2018, Tetra Tech submitted, or caused
4 to be submitted, materially false claims to the Navy for fraudulent testing and reporting at
5 Hunters Point, and made, or caused to be made, material false statements to the Navy in
6 connection with the fraudulent testing and reporting. In addition, Tetra Tech breached contracts
7 with the Navy, causing disruption, uncertainty, and delays in the remediation and transfer of
8 parcels of land at Hunters Point. Tetra Tech's conduct caused the United States to incur
9 substantial additional costs, the magnitude of which is still increasing.
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11 **II. JURISDICTION AND VENUE**

12 7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
13 §§ 1331, 1345, 1367(a), and 31 U.S.C. § 3732. The Court may exercise personal jurisdiction
14 over Tetra Tech pursuant to 31 U.S.C. § 3732(a) because Tetra Tech transacts business in this
15 District.
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17 8. Venue is proper in the Northern District of California under 31 U.S.C. § 3732(a) and
18 28 U.S.C. § 1391(b) and (c) because Tetra Tech transacts business in this District.
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20 **III. PARTIES**

21 9. The United States brings this action on behalf of the Department of the Navy.

22 10. Tetra Tech EC, Inc. is a wholly-owned subsidiary of Tetra Tech Inc., with its
23 principal place of business in Morris Plains, New Jersey. At all times relevant to this complaint,
24 Tetra Tech EC, Inc., and its predecessor companies, was a company providing remediation and
25 construction services worldwide, including to the federal government. Tetra Tech's predecessor
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companies include Foster Wheeler Environmental Corporation and Tetra Tech FW Inc. Upon information and belief, Tetra Tech EC assumed all liabilities of its predecessor companies.

IV. THE FALSE CLAIMS ACT

11. The False Claims Act, 31 U.S.C. §§ 3729-33, as amended by the Fraud Enforcement and Recovery Act of 2009, Pub.L. 111-21 (May 20, 2009), provides, in pertinent part, that:

[A]ny person who—

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; [or]

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 note; Public Law 104-410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

31 U.S.C. § 3729(a)(1).

12. Prior to the enactment of the Fraud Enforcement and Recovery Act of 2009, the False Claims Act provided, in pertinent part, that:

Any person who –

(1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;

Is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person[.]

13. Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, 28 U.S.C. § 2461, and 64 Fed. Reg. 47099, 47103 (1999), the False Claims Act civil penalties were adjusted to \$5,500 to \$11,000 per false claim for violations occurring on or after September 29, 1999. The penalty range was increased to \$10,781 to \$21,563 effective August 1, 2016, for violations occurring on or after November 2, 2015. 81 Fed. Reg. 42491, 42494 (2016).

14. The False Claims Act defines “knowing” and “knowingly” as follows:

[T]he terms “knowing” and “knowingly”—

(A) mean that a person, with respect to information—

- (i) has actual knowledge of the information;
- (ii) acts in deliberate ignorance of the truth or falsity of the information; or
- (iii) acts in reckless disregard of the truth or falsity of the information; and

(B) require no proof of specific intent to defraud.

31 U.S.C. § 3729(b)(1).

V. FACTUAL ALLEGATIONS

A. Radiological History of Hunters Point

15. Hunters Point is located in southeast San Francisco on a peninsula that extends east into the San Francisco Bay. A subsidiary of the Bethlehem Steel Company operated it as a drydock facility for commercial and military ship maintenance and repair from 1868 until 1939, when the Navy purchased it. On December 18, 1941, eleven days after the United States entered World War II, the Navy took full control of Hunters Point. To support the war effort, the Navy constructed numerous buildings, and excavated surrounding hills to expand the shoreline into the

1 Bay. After World War II ended, the Navy used Hunters Point's expansive berthing facilities for
2 reserve fleet ships returning from the Pacific.

3 16. Shipyard operations by the Navy involved the use of general radioactive material.
4 Such operations included refurbishment and handling of radioluminescent devices and paint,
5 gamma radiography, calibration laboratory operations to ensure the accuracy of radiological
6 survey instruments, and decontamination of ships (including ships returning from Operation
7 Crossroads -- atomic weapons testing in the Bikini Atoll in the Marshall Islands). In addition, in
8 1946, the Navy established at Hunters Point a laboratory that eventually became the Naval
9 Radiological Defense Laboratory ("Defense Lab"). The Defense Lab, which occupied up to 20
10 buildings at Hunters Point, was a center for research into decontamination and the effects of
11 fallout and radiation on living organisms and on natural and synthetic materials. The Defense
12 Lab used a large number of radionuclides, as well as machines that generated radiation and
13 charged particles. The Navy closed the Defense Lab in 1969. The Navy also used Hunters
14 Point's berthing and drydocking facilities for the maintenance and repair of nuclear-powered
15 ships.
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19 17. The Navy ceased operating Hunters Point as a Naval shipyard in 1974. From 1974 to
20 1986, the Navy leased facilities at Hunters Point to private tenants. The Navy resumed operation
21 of the shipyard in 1986, when Hunters Point was designated as an annex to Naval Station
22 Treasure Island. Shipyard operations were permanently terminated on December 29, 1989. In
23 1991, Hunters Point was identified for closure and reuse pursuant to the Base Realignment and
24 Closure Act of 1988. On January 21, 1994, the Navy and the City and County of San Francisco
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1 executed a memorandum of understanding establishing a process for the transfer of Hunters
2 Point to the City and County of San Francisco for redevelopment.

3 18. In 1989, the United States Environmental Protection Agency (EPA) placed Hunters
4 Point on the National Priorities List of Superfund sites pursuant to the Comprehensive
5 Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), which required
6 the Navy to conduct a preliminary assessment of contamination of the property.² Accordingly,
7 the Navy conducted and published a two-volume Historical Radiological Assessment (HRA).
8 Volume II, entitled *Final Historical Radiological Assessment, History of the Use of General*
9 *Radioactive Materials, 1939 – 2003*, was published in August 2004. It concluded that low levels
10 of radioactive contamination existed within Hunters Point, and identified impacted sites for
11 further investigation and remediation.
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14 19. On April 21, 2006, the Navy published the *Final Basewide Radiological Removal*
15 *Action Memorandum-Revision 2006, Hunters Point Shipyard, San Francisco, California* (“2006
16 Action Memo”). The purpose of the 2006 Action Memo was to document for the administrative
17 record the Navy’s “decision to undertake time-critical removal actions (TCRAs), at areas
18 throughout the base that may contain localized radioactive contamination in soils, debris/slag,
19 and buildings [at Hunters Point], as identified in [the HRA].” Attached as Table 1 to the 2006
20 Action Memo were the “release criteria.” The release criteria established the cleanup goals for
21 each radionuclide of concern for soil, surfaces, and water. The 2006 Action Memo prescribed
22 that “[b]efore initiating a removal action per this [Action Memo], the area being considered will
23 be characterized using real-time radiation detection devices or soil sampling and analysis.”
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27 ² Parcel A of Hunters Point was removed from the National Priorities List in February 1999, and
28 transferred to the City and County of San Francisco in December 2004.

1 20. Several radiological investigations and radiological removal actions have been
2 conducted at Hunters Point since being placed on the National Priorities List. As discussed
3 below, the Navy awarded several contracts to Tetra Tech, to perform these investigations and
4 removal actions.

5 **B. Contracts Awarded to Tetra Tech for Radiological Remediation at Hunters**
6 **Point**

7 21. In order to conduct the necessary radiological investigation and remediation at
8 Hunters Point, the Navy solicited proposals from contractors pursuant to several Environmental
9 Multiple Award Contracts for Environmental Remediation Services for Radiological
10 Contaminants. As discussed below, the Navy awarded several contracts (called “task orders”) to
11 Tetra Tech for the radiological investigation and remediation of radiologically-impacted sites
12 throughout Hunters Point.
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14 22. The objective of the task orders was to achieve “free release” of the radiologically-
15 impacted areas at Hunters Point so that the Navy could transfer the property to the City and
16 County of San Francisco for redevelopment. The HRA defines “free release” as a
17 recommendation made after investigations and surveys indicate all applicable release criteria
18 have been met and the site is ready for review by Navy and regulatory agencies for future non-
19 radiological use. The release criteria for each radionuclide of concern for surfaces, soil and
20 water, is set forth in Table 1 to the 2006 Action Memo and incorporated by reference into each
21 of the relevant task orders.
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23 23. The task orders required the radiological investigation and remediation to be
24 accomplished through testing and analysis of soil samples, and the scanning of building surfaces
25 with radiological detection instruments. Soil samples and radiological readings of building
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1 surfaces were conducted within designated “survey units,” which are measured areas throughout
2 Hunters Point. Task orders awarded to Tetra Tech included both cost plus award fee contracts
3 and firm fixed price contracts.

4 **(1) Cost Plus Award Fee Contracts**

5 24. The cost plus award fee contracts awarded to Tetra Tech obligated the Navy to pay
6 Tetra Tech its allowable costs for providing the services described in the scope of work, plus a
7 discretionary award fee, up to a maximum amount. Cost plus award fee contracts allow the
8 payment of an award fee, based on a judgmental evaluation by the government, sufficient to
9 provide motivation for excellence in contract performance. *See* Federal Acquisition Regulation
10 (FAR) § 16.305. A contractor may earn an award fee if its overall cost, schedule, and technical
11 performance is satisfactory. FAR § 16.401. For each of the cost plus award fee contracts
12 identified below, Tetra Tech submitted progress reports and vouchers for its costs and fees. A
13 government official certified the vouchers for payment in reliance on Tetra Tech’s
14 representations.
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18 25. On March 23, 2003, the Navy awarded contract number N68711-98-D-5713, task
19 order 0072 (“Task Order 5713-0072”), to Foster Wheeler Environmental Corporation, a
20 predecessor company of Tetra Tech EC, Inc. The Navy’s purpose in awarding Task Order 5713-
21 0072 was to acquire radiological sampling and remediation services for Hunters Point. Services
22 required under Task Order 5713-0072 included radiological surveys and remedial activities of
23 buildings, former building sites, sewer and drain systems, fill, and surrounding areas in Parcels
24 C, D, and E of Hunters Point. Task Order 5713-0072 was a cost plus award fee contract that
25 obligated the Navy to pay Tetra Tech its allowable costs for providing the required services, plus
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1 a discretionary award fee, not to exceed the maximum cost plus fee of \$31,397,209. After 52
2 contract modifications, the total contract value awarded was \$83,721,008.

3 26. On February 13, 2004, the Navy awarded contract number N68711-98-D-5713, task
4 order 0084 (“Task Order 5713-0084”), to Tetra Tech FW Inc., a predecessor company of Tetra
5 Tech EC, Inc. The objective of Task Order 5713-0084 was to excavate and dispose of
6 anthropogenic polychlorinated biphenyl (“PCB”) soil contamination from a PCB Excavation Site
7 in Parcel E of Hunters Point. Because low-level radiation was expected to be present in the soil,
8 radiation screening of the soil was also required. Task Order 5713-0084 was a cost plus award
9 fee contract that obligated the Navy to pay Tetra Tech its allowable costs for providing the
10 required services, plus a discretionary award fee, not to exceed the maximum cost plus fee of
11 \$1,368,238. After 27 contract modifications, the total contract value awarded was \$10,248,848.
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14 27. On March 28, 2006, the Navy awarded contract number N62473-06-D-2201, task
15 order 006 (“Task Order 2201-006”) to Tetra Tech EC, Inc. The scope of work in Task Order
16 2201-006 required Tetra Tech to perform radiological investigation and remediation to address
17 radiologically-impacted sites in Parcel B and one building in Parcel D. The primary objective of
18 Task Order 2201-006 was for Tetra Tech EC, Inc. to complete all radiological work for each
19 radiologically-impacted site in Parcel B that was identified in the HRA, and to provide general
20 base-wide radiological support services. Task Order 2201-006 was a cost plus award fee
21 contract that obligated the Navy to pay Tetra Tech its allowable costs for providing the services,
22 plus a discretionary award fee, not to exceed the maximum cost plus fee of \$17,485,300. Task
23 Order 2201-006 included an option to increase the costs by \$2,351,058 and the fee by \$213,728.
24 After 13 contract modifications, the total contract value awarded was \$32,742,848.
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1 28. On December 18, 2006, the Navy awarded contract number N44255-01-D-2000, task
2 order 0070 (“Task Order 2000-0070”), to Tetra Tech EC, Inc. The primary objective of Task
3 Order 2000-0070 was for Tetra Tech EC, Inc. to complete all radiological work for each
4 radiologically-impacted site in Parcel D that was identified in the HRA, and some unfinished
5 work in Parcel B. The task order required Tetra Tech to perform surveys and remediation of
6 buildings, a pier, and sanitary sewer and storm drain sites. Task Order 2000-0070 was a cost
7 plus award fee task order. The task order obligated the Navy to pay Tetra Tech its allowable
8 costs for providing the services, plus a discretionary award fee, not to exceed the maximum cost
9 plus fee of \$14,990,147. After eight contract modifications, the total contract value awarded was
10 \$22,523,715.
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12 29. On April 20, 2009, the Navy awarded contract number N62473-07-D-3211, task
13 order 0018 (“Task Order 3211-0018”), to Tetra Tech EC, Inc. The objective of Task Order
14 3211-0018 was for Tetra Tech to provide base-wide support to contractors performing chemical
15 and radiological removal and remediation at Hunters Point. Tetra Tech was required to maintain
16 on-site laboratory services to test survey samples for radionuclides of concern, and to operate a
17 Radiological Screening Yard to support radiological removal actions and investigations being
18 performed under different task orders. Task Order 3211-0018 was a cost plus award fee contract
19 that obligated the Navy to pay Tetra Tech its allowable costs for providing the services, plus a
20 discretionary award fee, not to exceed the maximum cost plus fee of \$13,882,869. After 12
21 contract modifications, the total contract value awarded was \$19,126,849.
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23 30. On June 3, 2009, the Navy awarded contract number N62473-07-D-3211, task order
24 0019 (“Task Order 3211-0019”), to Tetra Tech EC, Inc. The primary objective of Task Order
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3211-19 was for Tetra Tech to complete specified radiological remediation and surveys at remaining Parcel B sanitary sewer and storm drain sites. Task Order 3211-0019 was a cost plus award fee contract that obligated the Navy to pay Tetra Tech its allowable costs for providing the services, plus a discretionary award fee, not to exceed the maximum cost plus fee of \$884,716. After five contract modifications, the total contract value awarded was \$876,764.

(2) Fixed Price Contract Awards

31. The firm fixed price contracts awarded to Tetra Tech obligated the Navy to pay a maximum fixed amount for the services required under the contracts, regardless of Tetra Tech's costs. Firm fixed price contracts place upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. *See* FAR § 16.202-1. Firm fixed price contracts provide maximum incentive for the contractor to control costs and perform effectively, and impose a minimum administrative burden on the contracting parties. *Id.* For each of the firm fixed price contracts awarded to Tetra Tech identified below, Tetra Tech submitted monthly progress reports and invoices based on the percentage of work completed. Tetra Tech certified the invoices for payment, and government officials authorized payment to Tetra Tech in reliance on Tetra Tech's representations.

32. On September 4, 2008, the Navy awarded contract number N62473-08-D-8823, task order 002 ("Task Order 8823-002"), to Tetra Tech EC, Inc. The primary objective of Task Order 8823-002 was to remove and remediate sewer and storm drain lines along Fisher and Spear Avenues. Task Order 8823-002 required Tetra Tech to remove, survey, remediate, clear, and dispose of appropriately all sewer and storm drain systems, including the peripheral soil, in these two areas in order to attain free release. Task Order 8823-002 was a firm fixed price task order

1 that obligated the Navy to pay Tetra Tech a maximum fixed amount of \$6,343,703 for providing
2 the services required under the contract, regardless of Tetra Tech's costs. After six contract
3 modifications, the total contract value awarded was \$7,033,848.

4 33. On September 21, 2009, the Navy awarded contract number N62473-08-D-8823, task
5 order 003 ("Task Order 8823-003"), to Tetra Tech EC, Inc. Task Order 8823-003 addressed the
6 recommendations in the HRA for the radiologically-impacted sites in Parcel E, specifically
7 focusing on sanitary sewer and storm drain lines along Crisp Road, and radiologically-impacted
8 buildings and sites in the central portion of Parcel E. The primary objective of the solicitation
9 was to achieve unrestricted free release of the sewer and storm line survey units along Crisp
10 Road and the central areas of Parcel E. Additional work required by Task Order 8823-003
11 included surveys, remediation, and reporting for certain radiological buildings and sites in Parcel
12 E. Task Order 8823-003 was a firm fixed price contract that obligated the Navy to pay Tetra
13 Tech a maximum fixed amount of \$13,070,672 for providing the services required under the
14 contract, regardless of Tetra Tech's costs. After five contract modifications, the total contract
15 value awarded was \$13,019,641.

16 34. On June 23, 2010, the Navy awarded contract number N62473-10-D-0809, task order
17 002 ("Task Order 0809-002"), to Defendant Tetra Tech EC, Inc. The focus of Task Order 0809-
18 002 was Parcel C. The primary objective of the scope of work in Task Order 0809-002 was to
19 achieve free release of Buildings 203, 214, 241, 271, and 272, and unrestricted free release of the
20 sewer and storm drain survey units in Parcel C. Task Order 0809-002 was a firm fixed price
21 contract that obligated the Navy to pay Tetra Tech a maximum fixed amount of \$11,494,845 for
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1 providing the services required under the contract, regardless of Tetra Tech's costs. After nine
2 contract modifications, the total contract value awarded was \$12,082,759.

3 35. On September 9, 2010, the Navy awarded contract number N62473-10-D-0809, task
4 order 0004 ("Task Order 0809-0004"), to Defendant Tetra Tech EC, Inc. Task Order 0809-0004
5 obligated Tetra Tech to provide base-wide radiological support to enable contractors to complete
6 radiological removal and remediation work at Hunters Point, including the operation of
7 radiological screening yards that accepted and processed radiologically impacted soil from the
8 removal of storm and sanitary sewers, and the performance of routine surveys of radiologically
9 impacted buildings and sites. Task Order 0809-0004 was a firm fixed price contract. The
10 contract obligated the Navy to pay Tetra Tech a maximum fixed amount of \$14,040,521 for the
11 services required under the contract, regardless of Tetra Tech's costs. After 10 contract
12 modifications, the total contract value awarded was \$24,843,771.

15 36. On September 22, 2010, the Navy awarded contract number N62473-10-D-0809, task
16 order 007 ("Task Order 0809-007"), to Tetra Tech EC, Inc. The solicitation for Task Order
17 0809-007 was for radiological remediation and support for the 500 series area of Parcel E. The
18 objective was to achieve free release of sewer and storm drain survey units, buildings, building
19 sites, and the 500 series site of Parcel E. Task Order 0809-007 was a firm fixed price contract
20 that obligated the Navy to pay Tetra Tech a maximum fixed amount of \$9,984,979 for providing
21 the services required under the contract, regardless of Tetra Tech's costs. After 11 contract
22 modifications, the total contract value awarded was \$11,408,410.
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1 37. On July 10, 2012, the Navy awarded contract number N62473-10-D-0809, task order
2 0012 (“Task Order 0809-0012”), to Tetra Tech EC, Inc. Task Order 0809-0012 was in support
3 of Phase II of Parcel C remediation, focusing on sanitary sewer and storm drain lines and
4 radiologically-impacted ship berths and sites. The objective of the solicitation was to achieve
5 unrestricted free release of the sewer and storm drain survey units and ship berths in Parcel C.
6 For the ship berths, Tetra Tech was required to perform characterization surveys, remediation,
7 remedial action surveys, and final status surveys, and submit a final status survey report. For the
8 sanitary and sewer drain systems, Tetra Tech was responsible for removing the sewer and storm
9 drain lines and the associated impacted soil, surveying the trench and remediating it as necessary,
10 performing a final status survey, and submitting a final status survey report to the Navy. Task
11 Order 0809-0012 was a firm fixed price contract that obligated the Navy to pay Tetra Tech a
12 maximum fixed amount of \$9,846,298 for providing the services required under the contract,
13 regardless of Tetra Tech’s costs. After five contract modifications, the total contract value
14 awarded was \$10,487,802.
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17 38. On September 19, 2012, the Navy awarded contract number N62473-12-D-2006, task
18 order 0004 (“Task Order 2006-0004”), to Tetra Tech EC, Inc. Task Order 2006-0004 required
19 Tetra Tech to perform and report on surveys to analyze the radiological contamination in
20 Buildings 253 and 211 in Parcel C and to identify and bound the areas of contamination. Task
21 Order 2006-0004 was a firm fixed price contract that obligated the Navy to pay Tetra Tech a
22 maximum fixed amount of \$5,892,247 for the services required under the contract, regardless of
23 Tetra Tech’s costs. After two contract modifications, the total contract value awarded was
24 \$7,255,881.
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1 39. On August 13, 2013, the Navy awarded contract number N62473-10-D-0809, task
2 order 0015 (“Task Order 0809-0015”), to Tetra Tech EC, Inc. Task Order 0809-0015 addressed
3 recommendations in the HRA for radiologically-impacted sanitary sewer and storm drain lines in
4 Parcel E. Tetra Tech was responsible for the excavation of the sanitary sewer and storm drain
5 lines, as well as the sampling, analysis, and clearance of radiologically-impacted soils. The
6 primary objective of Task Order 0809-0015 was to complete the removal action, and deliver a
7 Final Status Survey Report containing adequate information and data to achieve unrestricted free
8 release. Task Order 0809-0015 was a firm fixed price contract that obligated the Navy to pay
9 Tetra Tech a maximum fixed amount of \$4,894,307 for the services required under the contract,
10 regardless of Tetra Tech’s costs. After two contract modifications, the total contract value
11 awarded was \$5,061,910.
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14 40. On September 23, 2014, the Navy awarded contract number N62473-10-D-0809, task
15 order 0016 (“Task Order 0809-0016”), to Tetra Tech EC, Inc. Task Order 0809-0016 was in
16 support of Phase III of Radiological Remediation and Support of Parcel C. The objective of
17 Task Order 0809-0016 was to achieve unrestricted free release of the remaining sewer and storm
18 drain survey units in Parcel C, and unrestricted free release of Buildings 205 and 224. Task
19 Order 0809-0016 was a firm fixed price contract that, as modified, obligated the Navy to pay
20 Tetra Tech a maximum fixed amount of \$669,812 for the services required under the contract,
21 regardless of Tetra Tech’s costs.
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24 41. The contracts identified in paragraphs 24-40 shall be referred to collectively as the
25 “Relevant Contracts.”
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C. Governing Contract Terms, Regulations, and Procedures to Ensure Proper Radiological Investigation of Soil and Buildings

42. Each of the Relevant Contracts required Tetra Tech to conduct radiological investigation of soil and buildings in accordance with the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM). MARSSIM is a consensus document published by the EPA, the U.S. Department of Defense, the U.S. Department of Energy, and the U.S. Nuclear Regulatory Commission that provides detailed guidance for the investigation and remediation of radiologically impacted sites.

43. For the radiological investigation and remediation of soil at Hunters Point, the Relevant Contracts and MARSSIM required Tetra Tech to take the following steps for each survey unit: (1) determine the boundaries of the survey unit; (2) collect soil samples for laboratory analysis in order to characterize the survey unit; (3) if laboratory results demonstrate that the soil is above release criteria, remediate survey unit by removing and disposing of soil; (4) collect soil samples for laboratory analysis from locations that tested above release criteria to ensure that remediation was effective; (5) further remediate if necessary; and (6) collect final status survey soil samples for laboratory analysis. The Relevant Contracts require Tetra Tech to “perform remediation and additional excavation until remediation goals have been met and or appropriate risk levels have been reached.”

44. The Relevant Contracts required Tetra Tech to provide radiological investigation of buildings at Hunters Point by conducting alpha, beta, and gamma radiation scans of building surfaces using radiation detection instruments. The Relevant Contracts and MARSSIM required Tetra Tech to take the following steps: (1) scan and remove material, equipment, and building debris; (2) determine the Class, and therefore size, of survey units (Class 1 survey units, defined

1 as having reasonable potential for contamination above release criteria, are divided into areas of
2 less than 100 square meters; Class 2 survey units, defined as having reasonable potential for
3 contamination but below release criteria, are divided into areas less than 1,000 square meters);
4 (3) conduct radiation scans by moving detectors across surfaces at required speeds; (4) download
5 data from detection instruments; (5) correct survey results for naturally occurring background
6 radiation; (6) evaluate data to determine whether the survey unit exceeds release criteria; (7)
7 remediate, remove and dispose of material, if necessary; and (8) repeat the above steps until
8 release criteria are met.
9

10 **D. Tetra Tech's Fraudulent Course of Conduct**

11 45. At all times relevant to this Complaint, Tetra Tech contracted with New World
12 Technology, Inc. or Radiological Survey & Remedial Services, Inc. to provide Radiological
13 Control Technicians (RCT) to work on the radiological investigation and remediation of Hunters
14 Point. Tetra Tech managers, including Stephen Rolfe and Justin Hubbard, supervised crews of
15 RCTs who were collecting soil samples and conducting building scans in Parcels B, C, D-2, E
16 and G, and Utility Corridors 1, 2, and 3.
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19 46. William Dougherty was the Project Manager for Tetra Tech between on or about
20 March 1, 2006 and early 2014. Dougherty worked on-site at Hunters Point, and was responsible
21 for managing all aspects of Tetra Tech's work. Dougherty had daily contact with, and gave
22 direction to, Rolfe and Hubbard.
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24 47. At all times relevant to the complaint, Dennis McWade was a Construction Manager
25 for Tetra Tech at Hunters Point. McWade worked on-site at Hunters Point, and was responsible
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1 for managing the crews performing radiological surveys and remediation at Hunters Point for
2 Tetra Tech. McWade had daily contact with, and gave direction to, Rolfe and Hubbard.

3 48. At all times relevant to the complaint, Rick Weingarz was employed by Tetra Tech as
4 an Assistant Project Manager at Hunters Point. Weingarz worked on-site at Hunters Point, and
5 was responsible for managing the crews performing radiological surveys and remediation at
6 Hunters Point for Tetra Tech. Weingarz had daily contact with, and gave direction to, Rolfe and
7 Hubbard.
8

9 49. Andrew Bolt, who has been Tetra Tech's President since on or about July 2014,
10 served as Tetra Tech's Senior Vice President, Remediation and Program Manager, from 1994
11 until 2014. Bolt, who was Dougherty's boss, provided Dougherty with monthly financial
12 reports regarding Tetra Tech's profits from its contracts to perform remediation work at Hunters
13 Point.
14

15 50. Rolfe, Hubbard, Dougherty, McWade, Weingarz and Bolt were each employed by
16 Tetra Tech EC in a managerial capacity at all times relevant to this Complaint, and each of them
17 was acting within the scope of employment at all times relevant to this Complaint.
18

19 51. Tetra Tech's fraud was initiated and directed by Tetra Tech's corporate managers,
20 including, but not limited to, Bolt, Dougherty, Weingarz, McWade, Rolfe, and Hubbard.

21 **(1) When Investigating Soil Contamination, Tetra Tech Caused Technicians to**
22 **Replace Collected Soil Samples with Clean Soil From a Different Location**
23 **Before Submitting the Samples to the Lab for Analysis**

24 52. In performing the Relevant Contracts, Tetra Tech was responsible for conducting soil
25 surveys, in accordance with MARSSIM, in order to identify and define the boundaries of
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1 radiological contamination. Soil surveys were used to determine whether further remediation
2 was necessary.

3 53. As part of the soil survey process, each parcel was divided into a number of
4 “survey units,” each of which defined a discrete area for analysis. Where feasible and practical,
5 survey units were defined with reference to fixed features within a parcel, such as a building, or a
6 trench created from the removal of a sewer or storm drain line. For areas other than buildings,
7 Tetra Tech was responsible for collecting soil samples from designated points within each survey
8 unit and submitting the samples to a laboratory for analysis. If the laboratory analysis
9 demonstrated a higher-than-allowable concentration of radionuclides of concern within a
10 particular survey unit, Tetra Tech was required to remediate the survey unit. After completing
11 the work it believed was necessary to remediate the area, Tetra Tech would collect new samples
12 (or building scan data) for another round of analysis. This process was repeated until all samples
13 collected within a survey unit passed laboratory analysis, at which time the survey unit was
14 deemed to have met the release criteria.
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18 54. As detailed below, Tetra Tech managers instructed RCTs to discard soil samples
19 collected from certain Survey Units at Hunters Point, replace the discarded samples with “clean”
20 soil from other locations, and submit the replaced samples to the lab for analysis. Through this
21 process, Tetra Tech misrepresented the location from which soil samples were collected and,
22 thus, misrepresented the character of soil in the survey units from which it purported to have
23 collected the samples.
24

25 55. In the course of conducting soil surveys under the Relevant Contracts, Tetra Tech
26 managers, including Stephen Rolfe and Justin Hubbard, ordered RCTs to collect soil in buckets
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1 from a location where they knew the soil was “clean,” *i.e.*, below the release criteria for
2 radionuclides of concern. Rolfe and Hubbard instructed the RCTs to keep the buckets of “clean”
3 soil in a CONEX box (a trailer-sized container used to transport and store supplies) on site.
4 After RCTs collected soil samples in Ziploc bags, Rolfe and Hubbard ordered the RCTs to bring
5 the bagged samples to the CONEX box, where they were instructed to empty the bags, and fill
6 new bags with the “clean” soil from the buckets. Tetra Tech personnel labeled the new bags
7 with the Survey Unit and Sample Identification Numbers of the discarded samples, and
8 submitted the switched soil samples to the onsite lab for analysis. Tetra Tech submitted these
9 falsified soil samples to the lab accompanied by a Tetra Tech Chain-of-Custody Record falsely
10 identifying the Survey Unit (and therefore the location from which the soil was collected) of
11 each sample. Each Chain-of-Custody Record was signed by the RCT or Tetra Tech
12 representative relinquishing the samples, as well as the lab employee receiving the samples.
13
14

15 56. On the cost plus award fee contracts, Tetra Tech benefited from the falsification of
16 soil surveys by billing for work it failed to perform in accordance with the Relevant Contracts,
17 and by receiving award fees to which it was not entitled. On firm fixed price contracts, Tetra
18 Tech benefited from the falsification of soil surveys by avoiding its obligation to remediate
19 contaminated areas, thus decreasing its overall costs. Tetra Tech management at Hunters Point,
20 including Project Manager Dougherty, was praised in performance evaluations for performing
21 task orders under cost.
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24 57. Tetra Tech falsified or caused the falsification of soil surveys, as described above, in
25 connection with its work in the survey units identified in Exhibit 1 hereto. As a result, the
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1 reports Tetra Tech submitted to the Navy in connection with this work (which are identified in
2 Exhibit 1 and described in paragraphs 66-68 below) were false.

3 **(2) Rolfe and Hubbard Plead Guilty to Charges of Destruction, Alteration, or**
4 **Falsification of Records in Federal Investigations**

5 58. On March 15, 2017, Tetra Tech manager Stephen Rolfe pleaded guilty to destruction,
6 alteration, or falsification of records in federal investigations and bankruptcy, in violation of 18
7 U.S.C. § 1519. In pleading guilty, Rolfe admitted that on approximately 20 occasions in 2012 he
8 instructed the RCTs on his team to get “clean dirt” from areas known to be clean and taken from
9 outside the marked Survey Unit areas to use as substitute samples for the dirt from the Survey
10 Unit, and that he did this so that the Survey Unit would pass the laboratory analysis and not
11 require further remediation. He further admitted that the switching of soil samples was done
12 inside the CONEX box on site at Hunters Point and in his presence. He also admitted that, on
13 these occasions, he knew that the soil locations reported on the Chain-of-Custody Record forms
14 were false. Rolfe admitted that the motivation for his conduct came from pressure applied from
15 his Tetra Tech management at Hunters Point, including Dougherty, Weingarz and McWade.
16 Rolfe admitted that Tetra Tech management at Hunters Point directed him to get his crew “the
17 hell out” of a survey unit that was testing above the release criteria, told him that they were “not
18 remediating the whole goddam site,” and directed him on numerous occasions to “get clean dirt.”
19

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21
22 59. On May 18, 2017, Tetra Tech manager Justin Hubbard pleaded guilty to destruction,
23 alteration, or falsification of records in federal investigations and bankruptcy, in violation of 18
24 U.S.C. § 1519. In pleading guilty, Hubbard admitted that in 2012 he obtained “clean” dirt from
25 an area north of Buildings 253 and 211 at Hunters Point and substituted it for dirt taken from at
26 least four Survey Units in the North Pier area of Hunters Point (i.e., Survey Units 1, 8, 10, and
27

11). He further admitted that he filled a five-gallon bucket with “clean” serpentinite soil from an area outside the relevant Survey Unit, and brought the bucket back to the CONEX box. Hubbard admitted that, once inside the CONEX box, he emptied the “legitimate” soil samples previously collected by RCTs from their sampling bags into an empty bucket, and substituted the clean serpentinite soil into each sampling bag. He also admitted that by switching the soil, he knew that the data on the Chain-of-Custody Record forms was false. Rolfe further admitted that he knew that the false data on the Chain-of-Custody Record forms was incorporated into maps and reports submitted to the Navy for the purpose of demonstrating that the area had been successfully remediated.

60. In engaging in the conduct described above, Rolfe and Hubbard acted within the scope of their employment with Tetra Tech, and for the purpose of benefitting Tetra Tech. Tetra Tech Management at Hunters Point, including but not limited to Dougherty, McWade, and Weingarz also acted within the scope of their employment with Tetra Tech, and for the purpose of benefitting Tetra Tech, when they knowingly directed and encouraged, and were aware of, the falsification of soil samples. Tetra Tech management did not alert the Navy of the fraud.

(3) When Investigating Building Contamination, Tetra Tech Falsified Data Collected from Radiation Detection Instruments

61. In performing the Relevant Contracts, Tetra Tech was responsible for conducting surveys of existing buildings, in accordance with MARSSIM, in order to characterize areas of radiological contamination. Building surveys were used to determine whether further remediation was necessary.

62. Tetra Tech conducted radiological building surveys by using radiation detection instruments to scan surfaces in the buildings. The radiation detection instruments were either

1 handheld or mounted on a cart. The data collected by the radiation detection instruments was
2 downloaded by Tetra Tech personnel into a database, and then imported into a spreadsheet that
3 was delivered to the Navy. The Navy relied on the results of Tetra Tech's building surveys to
4 determine whether further remediation was necessary.

5 63. Following the discovery of the falsification of soil samples, the Navy reviewed the
6 data from radiological surveys performed by Tetra Tech in buildings at Hunters Point. The Navy
7 found that strings of data from readings from one instrument and surface were repeated for
8 readings from other instruments and surfaces within a building. Duplicated strings of data were
9 discovered in the results of surveys conducted in 15 of 28 buildings. In some instances, the exact
10 time, to the second, that the reading was taken was also duplicated. In other cases, duplicated
11 data strings were altered slightly in an effort to conceal manipulation of the data. The probability
12 that the duplicated strings of data that the Navy discovered could occur by chance or innocent
13 error is extraordinarily low.

14 64. Tetra Tech manipulated and falsified the building scan data that it provided to the
15 Navy, rather than providing actual radiation detection results from a full building survey.

16 65. Tetra Tech falsified data collected from radiological scans of buildings throughout
17 Hunters Point, including but not limited to Buildings 103, 113, 113A, 130, 146, 253, 272, 351,
18 351A, 365, 366, 401, 411, 439, and 810. Tetra Tech's falsification of data was sufficiently
19 widespread that the Navy has been required to obtain new surveys of each of these buildings.

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24 **E. Final Status Survey Reports, Survey Unit Project Reports, and Removal Action
Completion Reports**

25 66. Pursuant to the Relevant Contracts, Tetra Tech prepared and submitted to the Navy
26 Final Status Survey Reports, Final Survey Unit Project Reports, final Removal Action
27

1 Completion Reports, and/or Characterization Survey Result Reports (collectively, the “Reports”)
2 upon completion of the investigation and remediation of a survey unit. The Reports described
3 the procedures and the results of the surveys performed to achieve unrestricted radiological
4 release of the radiologically-impacted sites at Hunters Point. The Reports were signed by
5 Dougherty as Tetra Tech’s Project Manager at Hunters Point, in addition to other Tetra Tech
6 officials.
7

8 67. In the Reports, Tetra Tech falsely stated that soil samples were properly collected
9 from designated survey units, when, in fact, samples of soil that Tetra Tech management knew to
10 be “clean” were collected from locations outside of the designated survey units and submitted to
11 the laboratory for analysis. In the Reports, Tetra Tech stated the soil sample analytical results as
12 if the soil was properly collected.
13

14 68. In the Reports, Tetra Tech falsely stated that building surveys were completed and
15 properly performed, when in fact the building scan data was manipulated. In the Reports, Tetra
16 Tech stated the building survey results as if the buildings were properly scanned and the data
17 were properly recorded and reported.
18

19 **F. Tetra Tech’s Submission of False Claims**

20
21 69. Tetra Tech submitted claims for payment to the United States under each of the
22 Relevant Contracts knowing that the claims were false or fraudulent because they included
23 claims: (a) for soil surveys in which Tetra Tech misrepresented the source of the soil samples
24 collected; (b) for building surveys in which Tetra Tech falsified the data collected by radiation
25 detection instruments; and/or (c) for preparing status survey reports containing falsified results
26 from soil and building surveys.
27

1 70. Tetra Tech management, including but not limited to Dougherty and Bolt, submitted
2 or caused to be submitted vouchers and invoices, accompanied by progress reports, representing
3 that it fully and properly investigated and remediated radiological contamination in soil and
4 buildings at Hunters Point. As described above, these representations were false.

5 71. Tetra Tech “knowingly” submitted vouchers and invoices and accompanying
6 progress reports containing material misrepresentations, within the meaning of the False Claims
7 Act, 31 U.S.C. § 3729(b).
8

9 **G. Tetra Tech’s Fraud Has Caused Disruption, Uncertainty, and Delays**

10 72. Tetra Tech’s fraudulent course of conduct has caused substantial disruption,
11 uncertainty, and delay in the plan to remediate and transfer Hunters Point to the City and County
12 of San Francisco for redevelopment, as well as fear in the community regarding the effects of
13 any continued contamination at the site. Because of Tetra Tech’s fraud in investigating the
14 radiological contamination, the Navy will have pay another contractor to re-test much of the soil
15 and buildings in the Parcels where Tetra Tech worked in order to determine whether further
16 remediation is necessary. Tetra Tech’s fraud has also caused the Navy to devote substantial
17 resources to address the health and safety concerns of San Francisco residents. As a result of
18 Tetra Tech’s fraud, the transfer of Hunters Point to the City and County of San Francisco will be
19 delayed by many years. The Government has also had to devote substantial resources to
20 investigate the extent and impact of Tetra Tech’s fraud.
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FIRST CAUSE OF ACTION

(False Claims Act: Presentation of False Claims)

(31 U.S.C. § 3729(a)(1)(A))

73. The United States repeats and re-alleges the preceding paragraphs as if fully set forth herein.

74. Tetra Tech knowingly presented, or caused to be presented, false or fraudulent claims for payment or approval to the United States, in violation of 31 U.S.C. § 3729(a)(1)(A), by submitting claims for payment based upon falsified soil surveys, building surveys, and status survey reports. Tetra Tech's false or fraudulent claims include, but are not limited to, the invoices identified on Exhibit 2.

75. As a result of the false or fraudulent claims presented or caused to be presented by Tetra Tech, the United States paid Tetra Tech and suffered damages to be determined at trial. Under the False Claims Act, the United States is entitled to three times the amount of damages it sustained, plus civil penalties of not less than \$5,500 and not more than \$11,000 for each false claim.

SECOND CAUSE OF ACTION

(False Claims Act: False Statement Material to a False Claim)

(31 U.S.C. § 3729(a)(1)(B))

76. The United States repeats and re-alleges the preceding paragraphs as if fully set forth herein.

77. Tetra Tech made, used, or caused to be made or used, false records or statements material to false claims, in violation of 31 U.S.C. § 3729(a)(1)(B), by reporting false results from

1 soil and building surveys. Tetra Tech's false records or statements material to false claims
2 include, but are not limited to those reports identified on Exhibit 1.

3 78. As a result of the false records or statements made or used, or cause to be made or
4 used, by Tetra Tech, the United States paid Tetra Tech and suffered damages to be determined at
5 trial. Under the False Claims Act, the United States is entitled to three times the amount of
6 damages it sustained, plus civil penalties of not less than \$5,500 and not more than \$11,000 for
7 each violation.
8

9 **THIRD CAUSE OF ACTION**

10 (Breach of Contract)

11 79. The United States repeats and re-alleges the preceding paragraphs as if fully set
12 forth herein.
13

14 80. Each of the Relevant Contracts required Tetra Tech to perform soil and building
15 surveys in accordance with MARSSIM and other contract specifications.
16

17 81. Based on the actions described above, Tetra Tech breached the Relevant
18 Contracts by falsifying soil samples, falsifying building scan data, and failing to perform full,
19 complete, and accurate investigations of radiological contamination.

20 82. The United States has incurred damages, including consequential damages, as a
21 result of Tetra Tech's breaches of the Relevant Contracts.
22

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the United States demands and prays that judgment be entered in
25 its favor against Defendant Tetra Tech EC, Inc. as follows:
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1 1. On the First Cause of Action under the False Claims Act, for the amount of the United
2 States' damages, trebled as required by law, and such civil penalties as are required by law,
3 together with such further relief as may be just and proper.

4 2. On the Second Cause of Action under the False Claims Act, for the amount of the
5 United States' damages, trebled as required by law, and such civil penalties as are required by
6 law, together with such further relief as may be just and proper.

7 3. On the Third Cause of Action for breach of contract, for an amount equivalent to the
8 loss sustained by the United States, including consequential damages, plus interest, costs, and
9 expenses, and for such further relief as may be just and proper.
10

11
12 DATED: January 14, 2019

Respectfully submitted,

13 ALEX G. TSE
14 United States Attorney

15 /s/ Michael T. Pyle
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the United States demands a jury trial in this action.

DATED: January 14, 2019

Respectfully submitted,

ALEX G. TSE
United States Attorney

/s/ Michael T. Pyle

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